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SUPREME COURT, U.S.

IN THE SUPREME COURT

OF THE UNITED STATES

October Term, 1980

No. 80-6618

STANLEY M. BARTUS,

Appellant,

vs.

STATE OF WISCONSIN,

Appellee.

MOTION AND AFFIDAVIT FOR LEAVE

TO PROCEED IN FORMA PAUPERIS

STANLEY M. BARTUS
Appellant - Pro See

In Forma Pauperis

1848 Maple Ridge Road
Mosinee, WI 54455

715-693-6266

IN THE SUPREME COURT

OF THE UNITED STATES

October Term, 1980

No._____

STATE OF WISCONSIN,

Appellee,

vs.

STANLEY M. BARTUS,

Appellant.

MOTION FOR LEAVE
TO PROCEED IN FORMA PAUPERIS

Pursuant to Rule 53(1) of the Rules of this Court, Appellant Stanley M. Bartus, asks leave to file the attached Notice of Appeal to the Supreme Court of the United States without prepayment of costs and to proceed in forma pauperis. The Appellant's affidavit in support of this Motion is attached hereto.

Dated this 17th day of February, 1981.

STANLEY M. BARTUS

Appellant Pro Se
In Forma Pauperis

1848 Maple Ridge Road
Mosinee, WI 54455

IN THE SUPREME COURT

OF THE UNITED STATES

October Term, 1980

No._____

STATE OF WISCONSIN,

Appellee,

vs.

STANLEY M. BARTUS,

Appellant.

AFFIDAVIT IN SUPPORT OF
MOTION FOR LEAVE
TO PROCEED IN FORMA PAUPERIS

I, Stanley M. Bartus, being first duly sworn according to law, depose and say that I am the Appellant in the above entitled cause, and, in support of my application for leave to proceed without being required to prepay costs or fees, state:

1. Because of my poverty I am unable to pay the costs of said cause.

2. I am unable to give security for the same.

3. I believe that I am entitled to the redress I seek in said cause.

4. This review is sought in good faith.

5. That I sought leave to proceed in forma pauperis in the Wisconsin Court of Appeals, District III and such leave was granted.

Dated this 17th day of February, 1981.

STANLEY M. BARTUS
Appellant

Subscribed and sworn to before me
this 17th day of February, 1981.

Ruth D. Kressel
Notary Public, State of Wisconsin
My commission expires: 1/16/83

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No. 80-6618

STANLEY M. BARTUS,

Appellant,

vs.

STATE OF WISCONSIN,

Appellee.

ON APPEAL FROM THE SUPREME COURT OF WISCONSIN

JURISDICTIONAL STATEMENT

STANLEY M. BARTUS
Appellant - Pro Se

In Forma Pauperis

1848 Maple Ridge Road
Mosinee, WI 54455

715-693-6266

.1.(a)

The constitutional questions presented by the appeal are all in challenge to the application of Wisconsin Statutes Sections 77.51, 77.52 and 77.61 to the Appellant and his prosecution and convictions thereunder.

1. To what extent can the state, by its legislative authority, abridge or deny the exercise of religious practices and beliefs?

2. Can the state grant by privilege that which it has no inherent power to deny?

3. Did the state deprive the Appellant of liberty and property without due process of law by unreasonable interference with the natural rights of Appellant to labor and enjoyment of the fruits thereof?

4. Did the state extend its power to license lawful, innocuous occupations beyond its regard for the protection of health, morals and welfare of the public and be in conformity with the United States Constitution?

5. By arbitrary classification, is due process of law satisfied if everyone's constitutional rights are violated, class by class?

6. Can the courts of the State of Wisconsin ignore the provisions of the Wisconsin Statutes or of the Constitution of the United States when hearing criminal cases or in rendering decisions, judgments and orders therein?

.1.(b) LIST OF PARTIES TO THE PROCEEDING

The names of all parties are included in the caption of the case.

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.1.(d)

Appeal is from the judgments of 29 November 1978 in case No. 9626/79-561CR and of 8 February 1979 in case No. 10,073/79-562CR, both heard in Circuit Court, Branch #2, Marathon County, State of Wisconsin, the affirmation of such judgments by the Wisconsin Court of Appeals, District III on 10 June 1980, and the order of Denial of Petition by the Supreme Court of the State of Wisconsin on 1 December 1980.

11.(e)(i)

Criminal proceedings were instituted against Appellant Bartus under the provisions of Wis. Stat. 77.52(12) for violation of Wis. Stat. 77.52, a sales and use tax law. Appellant Bartus immediately, consistently and vigorously in the courts sought the protections granted him by the respective constitutions. Such protection has been previously invoked because of the apparent incompatibility of the Wisconsin Statute with the consuetudinial, Biblical and constitutional guarantees and protections.

.1.(e)(ii)

Appellant prays for review of the judgments of 29 November 1978 in case No. 9626/79-561CR and of 8 February 1979 in Case No. 10,073/79-562CR, both heard in Circuit Court, Branch #2, Marathon County, State of Wisconsin, the affirmation of such judgments by the Wisconsin Court of Appeals, District III on 10 June 1980, and the order of Denial of Petition by the Supreme Court of the State of Wisconsin on 1 December 1980. Notice of Appeal was filed with the Clerk of Circirt Court Marathon County, State of Wisconsin, Branch

#2, on 17 February 1981, and extension was requested on 17 February 1981, and the extension was granted on 24 February 1981 to and including 29 April 1981.

.1.(e)(iii)

The jurisdiction in these cases is conferred upon this Court by the First Amendment and by 28 USC 1257(2) as defined and explained in 32 Am Jur 2d 255, 28 USCS 1257 (n59 to n69) because the Supreme Court of the State of Wisconsin is the highest state court, and as further described in 28 USCS 1257 (n74), a substantial federal question was presented by the appellant long prior to the initiation of proceedings.

Minneapolis, S.P. & S.S.M.R. Co vs Rock, (1929) 279 U.S. 410, 73 L. Ed 766, 49 S. Ct 363; Clark vs. Pennsylvania (1888) 128 US 395, 32 L. Ed 487, 9 S. Ct 113; Bantam Books, Inc. vs. Sullivan, 372 US 58, 9 L Ed 2d 584, 83 S. Ct 631; St. Louis I.M. & S.R. Co. vs. Starbid (1917) 243 US 592, 61 L. Ed 917, 37 S. Ct 462; Union Mutual Life. Ins. Co. vs. Kirchoff (1898) 169 US 103, 42 L. Ed 677, 18 S. Ct 260; Keokuk & Hamilton Bridge Co. vs. Illinois (1900) 175 US 626, 44 L. Ed 299, 20 S. Ct 205; Missouri, K. & T. R. Co. vs. Elliot (1902) 184 US 530, 46 L. Ed 673, 22 S. Ct 446.

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The Old Testament in Jewish Chronichles,
W. Robertson Smith, 1881, Vol. X 28

.1.(g)

On 10 December 1969, a Wisconsin seller's permit was issued to Stanley M. Bartus, a professional air conditioning and furnace installation repair specialist.

For a period of about five years, Appellant Bartus purchased parts and equipment without payment of sales tax to his suppliers, collected the tax on the complete procedure and remitted the required amount to the state.

As of 1 January 1972, by revised statute, the amount of compensation to Agent Bartus was reduced from two percent of the amount collected to one percent of the amount collected.

In 1974 Appellant Bartus began paying the sales tax on the parts and equipment as he purchased them from his suppliers, and discontinued the practice of collecting the tax from his clients and remitting the tax to the state.

The Wisconsin Department of Revenue issued an Order of Revocation of Wisconsin Seller's Permit No. 149668, effective 30 April 1977. The permit was returned by the Appellant with an assertion of his constitutional rights.

Appellant Bartus continued to practice his profession and was subsequently served with Summons and criminal Complaint and tried by the court on two separate occasions for working without a Seller's Permit. He was criminally convicted on each occasion, and these convictions were upheld by the Wisconsin Court of Appeals, District III, and by the Supreme Court of the State of Wisconsin.

Appellant Bartus believes that the Court erred in its application of ambiguous, contradictory and unconsitutional laws and was negligent in not making these factors clear to the jury, and also in giving the impression to the jury that the Appellant had failed to pay any work related sales taxes.

The Appellant further believes, that upon review, the higher courts failed to examine the testimony and the evidence, because the constitutional issues presented on appeal were not satisfactorily answered.

Federal questions were raised by the Appellant in the court of first instance by his pro se Motion to Dismiss, filed 27 June 1978 and by his pro se appearance to argue the Motion during the arraignment proceeding at 29 June 1978.

That first Motion reads: (See Appendix, Page 50)

Appellant's supportive arguments during the arraignment hearing on 29 June 1978 included the following:

> " ... There is another thing I have to prove of this. This was established as a Christian nation and thereby I feel obligated to uphold the Christian Principles. That ruling was in the Church of the Holy Trinity vs. United States, 143 U.S. 232, where this country was established as a Christian Nation; and a duty of every citizen of this nation is to uphold and abide by Christian principles; and when we go back to Caesar, when in Rome do as the Romans do, Your Honor, and the Motion to Dismiss -- now, here is another thing. I have a copy of the original Complaint.
>
> Now the Gentleman from the state showed me that he received permit number 149668, which was returned to him, but he failed to, he failed to bring up a fact that I also invoked the Constitution of the United States as a bar against infringement against my inherent Constitutional rights." (Transcript, pp. 5, 6, 7)

The reply of the judge in part:

> " ... Possibly it should be changed; but until the legislature changes the law or the Supreme Court declares the law to be unconstitutional, the Court at the time would be of the opinion that the case would not be dismissed.
>
> Now possibly this is the landmark case that may prove that, but the Court is going to set it for trial.

In the trial of 29 November 1978, the letter from the Appellant to the Wisconsin Department of Revenue which accompanied the return of his seller's permit, referred to above, was read, at the request of his counsel, into the record. The letter read as follows: (See Appendix, Page 52)

The Appellant clearly asserted constitutional protections and religious beliefs as the reason for the return of the permit. But the instructions to the jury were merely concerned with the violation of the statute, and there was no commentary to the jury on the higher laws of the Constitution of Wisconsin or of the United States along with the instructions, merely a repetition of the statute and the order to determine whether or not the Appellant practiced his trade without a permit from the State of Wisconsin.

During the proceedings of 8 February 1979 in the Circuit Court of Marathon County the Appellant invoked the protection of the Fourteenth Amendment:

> "Now, we are so flooded with statements of humanity, equal rights, equal protection, I demand equal protection, again, guaranteeing me under the Fourteenth Amendment to the Constitution of the United States of America.
>
> The fact is this, your Honor: That I have to collect the money from my customer and they allow me for every dollar that I collect from them -- they allow me one cent, so if I collect four of those Federal Reserve Notes, your Honor, I get four cents from the customer from the State for my services.
>
> Now I here (sic) this constantly and I am sure, like I say, everybody in this room knows it -- we are supposed to get equal protection under the law, and I demand that. I am a sovereign citizen of the State of Wisconsin and a sovereign citizen of the United States of America, and that law is my, you know, my contract, my compact. It covers me."
>
> Transcript - p. 8, 13-25, p. 9, 1-3

The Court replied:

> "I will have to agree with you that the amount of discount or the amount that they are giving back to a retailer for all of the paperwork that is involved in the sales taxes isn't quite enough. There probably should be more for the service that it rendered; however, ..."
>
> (Transcript, p. 9 6-10)

But once again, the amendment was not read to the jury, nor was its meaning explained. The jury was merely charged to search for the "following elements of this offense:

> "First, that he was operating as a seller of tangible personal property or services as defined above as I have just defined them.
>
> Number two, that the defendant did sell such tangible property or services which were taxable under the Sales Tax Law.
>
> And, three, that at the time of such sale of personal property or services he did not have a valid seller's permit as required under the Sales Tax Act.
>
> If you are satisfied beyond a reasonable doubt, then,that he was operating as a seller of tangible personal property or services as defined in these instructions and that he did sell such tangible property or services which were at the time taxable under the Sales Tax Law, and that at the time of such sale by the defendant of personal property or services he did not have a valid selling permit under this Act, if you are satisfied beyond a reasonable doubt that there are present each of these elements, then you will find the defendant guilty."
>
> (Case No. 10073, Transcript p. 66, 9-25; p. 67, 1-7)

There was no mention of the basic factor of Intent. (Emphasis Added). And it is obvious that the Appellant had no intent to engage in any unlawful activity. He returned his seller's permit in order to assert his lawful constitutional rights.

> In Pari Causa Possessor Potiot Haberl Debet:
>
> "In an equal cause he who has the possession should be preferred."
>
> Dig. 50, 17, 128.1

This issue of intent was raised to the Wisconsin Court of Appeals, case no. 79-561CR and 79-562CR consolidated, in the brief on appeal, (P.4) and again in the Appellant's reply brief. (pp. 10 and 11)

The decision of the Court of Appeals on June 10, 1980 ruled:

> " ... it is obvious that the interest of justice will not be served by reviewing these alleged errors. (p. 5)

and

> " ... The jury verdicts are amply supported by credible evidence in the record." (p. 6)

Also in that decision of 10 June 1980, the Court of Appeals said:

> "Bartus' argument that the state does not have the authority to impose and collect a sales tax recently has been decided contrary to Bartus' position. The Wisconsin Supreme Court determined that the sales tax was a valid exercise of the constitutional authority of the State of Wisconsin,and that it did not violate either the Wisconsin or United States Constitution on equal protection grounds. The court also reiterated the burden of proof that is upon a taxpayer who challeges a tax classification on constitutional grounds."

Such reply indicates that the Court of Appeals either did not, or chose not, to understand the issues on appeal. Nowhere in the record does it show that the Appellant claimed that the state does not have the authority to impose and collect a sales tax. On the contrary, when asked by the court if he were challenging the authority of the State of Wisconsin to pass a sales tax law, his reply was negative. (Case No. 10072, Transcript, 8 February 1979, p. 6) He challeged the right of the state to make him an unwilling collector of such tax in order to enjoy his right to work.

The record shows that the Appellant paid the sales tax on the parts he purchased and gives no indication of any attempt to avoid or contest such payment. (Transcript 29 November 1978, pp. 73-76, Case No. 9626).

Also, this reply refers only to a decision based on a question of the Fourteenth Amendment, and ignores the other statutory and constitutional conflicts pointed out by the Appellant, including the First Amendment to the United States Constitution.

The Appellant, in his Petition to Appeal to the Supreme Court of the State of Wisconsin called the attention of the Court to the errors and deficiencies of the lower courts with regard to both the statutes and the constitutions, but the Order of the Supreme Court of the State of Wisconsin on 1 December 1980 denied the petition.

.1.(h)

There are a number of substantial federal questions in these cases involving the conflict of the state statute with prior and higher law and the conflict of the judgments and decisions of the courts of the State of Wisconsin with prior judgments of parallel and higher courts, with the Supreme Court of Wisconsin in conflict with itself.

The prior and higher laws with which Wisconsin Statute Section 77.52 and its companions are in conflict include Biblical law and precedent consuetudinary law, common law, the Northwest Ordinance of 1787, the Constitution of the State of Wisconsin and the Constitution of the United States.

There are several areas of conflict, but the overbreadth of effect sometimes tends to make them indistinguishable because the problem is so basic and so broad.

The Appellant has made and makes constitutional objections to the text and application of Chapter 73, Subchapter III of the Wisconsin Statutes, General Sales and Use Tax, with particular reference to the following cited provisions of Wis. Stat. 77.52 by which he has been directly and direly affected:

> "77.52(2) For the privilege of selling, performing, or furnishing the services herein described at retail in this state to consumers or users, a tax is hereby levied and imposed upon all persons selling, performing, or furnishing such services ...

(a) The tax imposed herein applied to the following types of services:

(10) ... For purposes of this paragraph, the following items shall be deemed ... furnaces, boilers, stoves, ... heaters, air conditioners, humidifiers, dehumidifiers, refrigerators, coolers, freezers, ... "Service" does not include services performed by veterinarians."

77.52(7) Every person desiring to operate as a seller within this state shall file with the department an application for a permit for each place of operations. Every application for a permit shall be made upon a form prescribed by the department and shall set forth the name under which the applicant intends to operate, the location of his place of operations, and such other information as the department requires. The application shall be signed by the owner if a sole proprietor; in the case of sellers other than sole proprietors, the applications shall be signed by the person authorized to act on behalf of such sellers. (Emphasis Added)

77.52(8) At the time of making an application the applicant shall pay to the department a permit fee of $2 for each permit.

77.52(9) After compliance with subs. (7) and (8) and 77.61(2) by the applicant, the department shall grant and issue to each applicant a separate permit for each place of operations within the state. A permit is not assignable, and is valid only for the person in whose name it is issued and for the transaction of operations at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.

77.52(12) A person who operates as a seller in this state without a permit or after a permit has been suspended ... is guilty of a misdemeanor. ..."(Emphasis Added)

That the statute is ambiguous, oppressive and discriminatory becomes evident upon examination.

77.52(11)(a) If any person fails to comply with any provision of this subchapter relating to the sales tax or any rule of the department. ...

77.52(19) The department shall by rule provide ...

77.53(9)(m) ... if he so elects, register with the department, under such terms and conditions as the department imposes, ...

The statute first purports to apply to all persons selling, performing, or furnishing such services and require a permit for each place of operations. It then states that a permit is not assignable and is valid only for the person in whose name it is issued.

But the state has not attempted to require that the Appellant, while in the employ of another, possess a permit, or that the Appellant himself or his occasional, temporary employers possess and display a permit at each location of sale or operation, the premises of the clients and customers.

It states that

> "Every person desiring to operate as a seller within this state shall file ... an application," (Emphasis Added)

but then continues to specify that

> "the application shall be signed by the person authorized to act on behalf of such sellers." (Emphasis Added)

The constitution requires:

> "Ordinary lawful and innocuous occupations of life must be open to all alike upon the same terms, and Legislature can neither deny nor unreasonably curtail common right secured to all men to maintain themselves and their families by the pursuit of usual legitimate and harmless occupations of life.
>
> Constitution, Article 1, Sections 1, 17, 31. State vs. Ballance, 51 S.E. 2d 731, Syllabus 10

In a parallel case, wherein individual licensure differed from corporate licensure, it was decided:

> "It will be recalled that the first section requires that all who engage in the business of plumbing ... shall first secure a license, and that section 2 provides that, in the case of a firm or corporation, the examination and licensing of any one member of such firm, or the manager of the corporation, shall satisfy the requirements of the act; ...
>
> A statute therefore which imposes special restrictions or burdens on, or grants special privileges, to persons engaged in the same business, under the same circumstances, cannot be sustained, because it is in the contravention of the equal right which all are entitled to in the enforcement of laws and in the enjoyment of liberty. ..."
>
> State vs. Gardner, (Supreme Court of Ohio, June 21, 1898) 51 NE Reporter 136

That the statutes in question are violative of the provisions of the Constitution of the State of Wisconsin, specifically: The Preamble, Sections 1, 2, 4, 6, 7, 11, 13, 18 and 22, but separate exposition of the violations is not necessary because the same protections are afforded by the Constitution of the United States. Redundance would result.

Article IV, Section 1 of the Wisconsin Constitution is violated by the administrative discretion granted to the Wisconsin Department of Revenue as is Section 32, but Appellant would rather reserve further exposition of this facet of violation to oral argument.

Article XIV, Sections 1 and 13 are also in contradiction to the principles and protections, but discussion thereof is entwined throughout in references to Consuetudinary and common law and to the Northwest Ordinance of 1787.

First Amendment protections guaranteed by the United States Constitution are violated by prosecution of the Appellant for his refusal to submit himself to servitude as a tax collector in return for the "privilege" of working.

Appellant's religious beliefs are in accord with the affirmation in a previous U.S. Supreme Court decision:

> "These and many other matters which might be noticed, add a volume of unofficial declarations to the mass of organic utterances that this is a Christian Nation.
>
> Church of the Holy Trinity vs. United States, 143 U.S. 232 (1891)

Appellant is also aware that to make possible all earthly material things man must obey the oral mandate of his Creator as set out in "Consuetudinary Law":

> "Customary law or the law derived by oral tradition from a remote antiquity."
>
> 16A C.J.S. Page 1241

" ... Cursed is the ground for thy sake; in sorrow shalt thou eat of it all the days of thy life; Thorns also and thistles shall it bring forth to thee; and thou shalt eat the herb of the field; In the sweat of thy face shalt thou eat bread, till thou return to the ground ..."

Genesis 3: 17-19 (King James Version)

The burden of toil has been placed upon man by his Creator. That he must be free to obey that command has been consistently upheld by the courts. For example:

"Among those inalienable rights, as proclaimed in that great document, is the right of men ... to pursue any lawful business or vocations in any manner not inconsistent with the equal rights of others, which may increase their prosperity or develop their faculties ...

Butcher's Union, etc. Co. vs. Crescent City, etc. Co. 111 U.S. 746-766, (1884), (The Slaughterhouse Cases)

In the very beginning of Christianity, St. Matthew resigned his position as tax collector in order to follow the doctrines and dictates of Christ. In regard to tax collectors, Cruden's Unabridged Concordance, 1974 Edition, p. 378, informs us:

"But the deputies, the under-farmers, the commissioners, the Publicans of the lower order, were looked upon as so many thieves and pickpockets. ... among the beasts of the wilderness, they were the bear and the lion; among the beasts of the city, they were the Publican and the Parasite.

"Among the Jews, the name and profession of a Publican was the most odious thing in the world. This nation, in a particular manner, valued themselves upon their freedom: ... Especially the Galileans or Herodians submitted to this badge of servitude not without the greatest impatience ... Those of their own nation that undertook this employ, they looked upon as no better than the heathen, 'Let him be unto thee, as an heathen man, and a Publican." Mat. 18. 17. It is said, that they would not allow them to come into their temples, or their synagogues, nor permit them to partake of their public prayers, or of their offices of judicature, or allow them to give testimony in a court of justice; and for certain they would not accept of their presents at the Temple, no more than they would of the price of prostitution or of blood, or of anything else of the like nature." (Emphasis Added)

And Christ Himself told us, at Levi's feast:

> "But their scribes and Pharisees murmured against his disciples, saying, Why do ye eat and drink with the publicans and sinners? And Jesus answering said unto them, They that are whole need not a physician; but they that are sick. I came not call the righteous, but sinners to repentance."
>
> Luke 5: 30-32

The Appellant is attempting to respond to that call, not by a refusal to pay sales taxes, but by objection to being forced to collect them.

The command to "Render unto Caesar ..." St. Matthew 22:21 may be a nationally accepted phrase and might have merit were Caesar alive. But while the Bible and the United States Constitution are still in force and Caesar is not, then the former are tenable. In the provinces of Rome, Caesar was sovereign, in the United States, under God, the citizen is sovereign.

Appellant recognizes the need of legitimate government for income, but nowhere in either Biblical or Constitutional law is it required that in addition to be obligated to pay tribute, one can be coerced into being an agent for the collection of tribute.

The Second Amendment was designed as a bulwark at the end of the avenue of ultimate recourse for the preservation of all rights secured by the other amendments in the Bill of Rights.

Appellant has been denied protection under this amendment. His right to keep and bear arms has been infringed.

In his Motion to Dismiss of 26 June 1978 in case no. 9626, the Appellant stated:

> "Defendant invoked the United States Constitution as an instrument to be used as a bar against infringement upon the inherent rights of defendant, thereby complaint fails to identify the Constitution as an accessory. See Appendix (Exhibit A in this pleading is a copy of the letter to Mr. Karow of the Wisconsin Department of Revenue appearing on page 52 of Appendix.)

But the State chose the use of unconstitutional statutory arms and weapons to compel Appellant Bartus into submission.

"ARMS. Anything that a man wears for his defense, or takes in his hands, or uses in his anger, to cast at or strike at another.

Co. Litt 161b, 162a; State vs. Buzzard, 4 Ark. 18 Black's Law Dictionary, Revised Fourth Edition, 1968.

The clear mandate of the Declaration of Independence is:

"But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such government ..."

and it is from this mandate that the Second Amendment was formulated.

The Appellant however, aware that our founders, by written contract, provided our citizens with an array of arms/weapons--The Bill of Rights -- to defend against tyrannical acts of those chosen to serve them, opted to arm himself with the Constitution of the United States rather than with firearms, and is attempting to change just one oppressive facet of government rather than to overturn the whole. But the State of Wisconsin ignored his constitutional prerogatives throughout, first by the actions of the Wisconsin Department of Revenue, then by the action of the courts, both claiming supremacy of the legislature over the constitutions, contrary also to the First Amendment, the right of the people to petition the government for a redress of grievance.

But they compounded the offense by violating the mandate of Article 4, Section 2 of the U.S. Constitution, and the injunction of the 14th Amendment, Section 1, those privilege and immunity clauses therof by incursion by hostile intention, which leads eventually to occupation by subversion of inalienable rights protected by the fundamental principles layed down in the United States Constitution.

Proceeding, as in this instance, by prayer for redress of grievance through the peaceful arena of judicial review has long been established as a truly American way.

Appellant finds violation of his Third Amendment protection to be evident. Once again, an understanding of the Declaration of Independence is necessary, wherein it charges of the King that:

> "He has erected a multitude of New Offices, sent forth swarms of officers to harass our people, and eat out their substance and assail him."
>
> For quartering large bodies of armed troops among us: ...

Such things have been done by the State of Wisconsin in that the entire might of the bureaucratic legislative police power as well as the judicial system have been brought to bear upon the Appellant because he issued a constitutional challenge to the State of Wisconsin.

Wisconsin Statute Section 77.52 subjects unwilling citizens to become tax collectors, acting in personal service to the state as its agents and public officers and such are present in every client's house when performing what purports to be a private service.

Our founders were wary of a repetition of the methods of tax collection which they found so abhorrent, but because even King George had not devised such an insidious way to bring a tax collector into each and every home in the country, no specific provision was written for the hazard. Such statutes permit the invasion of the privacy of a home under the color of law, and such an invasion has been ruled a violation of the Third Amendment:

> " ... specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help given them life and substance. ..."
>
> Griswold vs. State of Connecticut, 85 S. Ct 1678 (1965)

The Appellant's Fourth Amendment guarantee against unreasonable seizure and the guarantee of security in person, house, papers and effects has been virtually abolished.

His "right to work", a property right, (Butcher's Union, etc. vs. Crescent City, etc., supra)(The Slaughterhouse Cases) has been seized and therefore violated by state agents supposedly under authority of statute and color of law. Such action was taken prior to their recourse to the courts and has resulted in the jeopardy of his person to criminal incarceration and the loss of his shelter because of his inability to work to maintain payment, taxes, upkeep and sustenance for his family.

The denial of this protection to the Appellant has, in effect, seized these protections from each member of his family.

> "These fundamental guaranties are very broad in scope, and are intended to secure to each person subject to the jurisdiction of the State extensive individual rights, including that of personal liberty. The term 'liberty', as used in the constitutional provisions, does not consist simply of the right to be free from arbitrary physical restraint or servitude, but is 'deemed to embrace the right of man to be free in the enjoyment of the faculties with which he has been endowed by his Creator, subject only to such restraints as are necessary for the common welfare'". (Emphasis Added)
>
> State vs. Ballance, supra

If a man's most precious possession next to life itself can be seized under color of law, without due process of law, the Fourth Amendment has been reduced to mere verbiage without effect.

The violations of Appellant's rights under the Fifth Amendment are manifold.

First: The aforementioned deprivation of property, i.e. the right to work, without due process of law.

Second: The fact that filing sales tax reports on the total of both parts and services provides the state with a minimum personal gross income figure which is available to the Income Tax Division of the Wisconsin Department of Revenue and to the Internal Revenue Service of the United States. Thus any true or apparent discrepancy which might exist in the filing of tax forms with those agencies would place the Appellant in jeopardy of criminal prosecution. And, if it be demonstrated that inaccurate figures appear on the sales tax remittance forms, the Appellant is placed in the same jeopardy. If it were not for the requirement of collecting sales tax, records would not be required. Wisconsin Statute Section 77.61(4) and (5). But this is not permitted, because:

> "The question is not whether petitioner holds a 'right' to violate state law, but whether having done so, he may be compelled to give evidence against himself. The constitutional privilege was intended to shield the guilty and imprudent as well as the innocent and foresighted; if such an inference of antecedant choice were alone enough to abrogate the privilege's protection, it would be excluded from the situations in which is has historically been guaranteed, and withheld from those who require it."
>
> Marchetti vs. United States, 88 S. Ct 697 (1968)

and:

> "It is not a crime for one to insist upon his constitutional rights and no person may constitutionally be punished for doing so."
>
> Ward vs. State, 444 P. 2d 255, 89 S. Ct. 665, 393 U.S. 1040, 21 L. Ed 2d 588

Third: The requirement that Appellant's property, his work and the right thereto, is taken without just compensation, is in violation of the provisions of the Northwest Ordinance, in that the state would have him, as a condition of his work, collect taxes for the state, although:

> "No man shall be deprived of his liberty or property, but by the judgment of his peers or law of the land; and should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And, in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made, or have force in the said territory, that shall in any manner whatever, interfere with or affect private contracts, bona fide, and without fraud, previously formed."

Appellant has not refused or failed to pay sales tax on parts and equipment used and installed in the course of his work, he has merely refused to collect such taxes for his service. This fact has been wholly ignored by the Wisconsin courts even though they are bound by the Northwest Ordinance as well as by the constitutions.

The Appellant finds a serious fault in his protection under the Sixth Amendment wherein he is granted the right to trial by "an impartial jury of the State and District wherein the crime shall have been committed, ..."

But the juries, because of the nature of the instructions given to them, had no opportunity to be impartial, and the Appellant therefore, in effect, was not granted the "right to trial".

Neither of the juries was instructed to give weight to the constitutional questions in this case. Both were instructed merely to consider the wording of the statute and to determine if the Appellant was in apparent violation.

No consideration was given to the constitutional issues presented by the defense either at the trial or the appellate level by the courts, although:

> "State courts have not only the power but duty to enforce rights secured by Constitution and laws of the United States when such issues are involved in the proceedings before them."
>
> Betts vs. Fasley, (1946) 161 Kan 459, 169 P2d 831, 166 ALR 342

Definition of violations of Appellant's rights under the Eighth Amendment are somewhat more nebulous and contingent upon the violation of other articles. But there is a definite peripheral matter at hand. With or without conviction, denial of one's right to work is a most cruel and unusual punishment.

The Appellant in this case is a repair and installation service man. He is not an armed robber by profession, nor is he an extortionist or a kidnapper, or a member of any of the parasitic or dangerous criminal elements of our society. He is a productive individual who uses his skill, knowledge and experience to enhance the lives of his clientele.

The Appellant has fulfilled his statutory obligation to pay the sales tax, as recorded in trial transcript, but has no constitutional obligation to collect the tax.

This violation, like those of the other amendments, harms not only the Appellant and his family, but deprives the general public as well.

When:

> "That portion of state statute which made addiction to narcotic drug a punishable crime was unconstitutional as imposing cruel, unusual and inhuman punishment in violation of Eighth Amendment."
>
> State vs. Bridges, (1962, Mo) 360 SW2d 648. USCS L Ed 1977 p 392 (11)

it certainly follows that a statute which makes addiction to work without a permit a punishable crime is unconstitutional.

The Ninth Amendment reads:

> " The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people."

Yet the right to work has been taken from the Appellant by the State of Wisconsin in violation of its own constitution as well, wherein Article I, Section 1 reads:

> "All men are born equally free and independent, and have certain inherent rights; among these are life, liberty and the pursuit of happiness; to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed."

These statements and their guarantee acknowledge that many things are so basic and inherent that they cannot all be enumerated or defined in a concise instrument such as is the Constitution of the United States, but requires that we look to consuetudinary and common law when a question arises.

The right to work was taken from the Appellant by the State of Wisconsin, even though its own constitution requires that the state 'secure' that right.

According to W. Bell, Dict. Law Scot.(1861):

> "Consuetudinary or customary law, in contradistinction to written or statutory law, is that law which is derived by immemorial custom from remote antiquity. Such is the common law of Scotland."

And we find in The Old Testament in Jewish Chronichles, W. Robertson Smith, 1881, vol. X, p. 299: "Ordinary affairs of life are always regulated by consuetudinary law."

Thus a man's right and duty to work, mandated to Adam in Genesis 3: 17-19 and his successors, predates any codification as does the right to own property and to use and dispose of it as long as such use harms no one.

As earlier demonstrated, the right to work is a property right (Butcher's Union vs. Crescent City, etc, supra), then consider:

> "To secure their property was one of the great ends for which men entered into society. The right to acquire and own property, and to deal with it and use it as the owner chooses, so long as it harms nobody, is a natural right. It does not owe its origin to constitutions. It existed before them. It is part of the citizen's natural liberty - an expression of his freedom, guaranteed as inviolate by every American Bill of Rights."

"It is not a right therefore, over which the police power is paramount. Like every other fundamental liberty, it is a right to which the police power is subordinate."

Spann vs. City of Dallas, 235 SW p. 515

But the legislature of the State of Wisconsin has ignored this principle and abridged this unabridgeable right by certain provisions of Wisconsin Statute Section 77.52, even though:

"(6) The principle is well settled that a State cannot grant a privilege subject to the agreement that the grantee will surrender a constitutional right, even in those cases where the State has the unqualified power to withhold the grant altogether. Where such a condition is imposed upon the grantee, he may ignore or enjoin the enforcement of the condition without thereby losing the grant.

City of Alexandria vs. Texas Co., Va., (1939) 1 SE Reporter 2d, 296

and further:

"Such legislation may include one class of rights to-day and another to-morrow, and if it can be sanctioned by the Constitution, while far removed in time, we will not be far away in practical statesmanship from those ages when governmental prefects supervised the building of houses, the rearing of cattle, the sowing of seed and the reaping of the grain, and governmental ordinances regulated the movements and labor of artisans, the rate of wages, the price of food, the diet and clothing of the people, and a large range of other affairs long since in all civilized lands regarded as outside of governmental functions."

In re Jacobs, 98 N.Y. 98, 50 Am. Rep. 636

Also, we find:

"Restrictions and regulatory standards may not be applied so as to prevent individuals from freely engaging in ordinary trades and occupations in which men have immemorially engaged as a matter of common right."

State vs. Warren, 114 S.E. 2d 660, Syllabus 4, p. 661
State vs. Redmon, Supreme Court of Wisconsin, 13 December 1907, 114 NW 137

These same principles are reaffirmed in Colorado Anti-Discrimination Commission vs. Case, 380 P. 2d 34, p. 35:

> "There are fundamental and inherent rights with which all humans are endowed even though no specific mention is made of them in either the national or state constitutions." Syllabus 1
>
> "The inherent human freedoms with which mankind is endowed are antecedent to all earthly governments; rights that cannot be repealed or restrained by human laws; rights derived from the Great Legislator of the Universe." Syllabus 2
>
> "The constitutions of the state and the nation recognize unenumerated rights of natural endowment." U.S.C.A. Cons. Amend.9, Const.Art. 2, Sec. 28, Syllabus 3
>
> "If a statute purporting to have been enacted to protect the public health, morals, safety or common welfare, has no real or substantial relation to these objects, and for that reason is a clear invasion of the constitutional freedom of the people to use, enjoy or dispose of their property without unreasonable governmental interference, the courts will declare it void." Syllabus 7

It has been ruled too, that:

> "When it is therefore clearly evident that an act sought to be justified as an exercise of police power is not, in fact, intended as a regulation, and that its real purpose, no matter what verbiage is employed to conceal it, is to raise revenue or to accomplish some ulterior effect not within the legitimate province of legislation, the courts will hold it to be unauthorized and void."

Iowa City vs Glassman, 155 Iowa, 671, 136 N.W. 899, 40 L.R.A. (N.S.) 852; State vs. Osborne et al (Supreme Court of Iowa, 1915) 154 N.W. p. 294

The very wording of Wisconsin Statute Section 77.52(2) wherein it says: "For the privilege of selling, performing, or ..." is in total disregard of the inalienable rights of men. The state has removed the right to work from its citizens, and returned it to them as a privilege which must be purchased and then is issued conditionally, if at all.

> "This illusion had extended so far that some persons asserted that the right to work was a royal privilege which the King might sell, and that his subjects were bound to purchase from him. We hasten to correct this error and to repel the conclusion. God in giving to man wants and desires rendering labor necessary for their satisfaction, conferred the right to labor upon all men, and this property is the first, most sacred and imprescriptible of all."
>
> From the Edict of Louis XVI, 1776, quoted in the Slaughterhouse Cases

Will the next statute assault the right to breathe by licensing and taxation merely because that right is unenumerated by either the state or federal constitution?

In regard to the Tenth Amendment it must be noted that the power to withhold or suspend constitutionally protected rights cannot be delegated to the United States, nor retained by the states, and would therefore be reserved to the people, who by the nature of the republic and the Constitutional compacts, both State and Federal, retain sovereign power. Therefore, no-one or no governmental level or agency can withhold or suspend such rights.

The Thirteenth Amendment and decisions rendered according to its mandates are very explicit. Appellant Bartus was tried and convicted for his refusal to serve as a tax collector while practicing his profession even though:

> "The term involuntary servitude, in my opinion, is substantially synonymous with slavery, though it may perhaps be regarded as slightly more comprehensive, and as embracing every thing under the name of servitude, though not denominated slavery, which gives to one person the control and ownership of the involuntary and compulsory services of another against his will and consent." (Emphasis Added)
>
> Tyler vs. Heidorn, 46 Barb 439, 458 (Albany General Term, 1866) and Reaffirmed by quotation in U.S. vs. Shackney, 333 F. 2d 475 (1964).

and:

"One who is shut up by superior or overpowering force, constantly present and threatening, from earning his living in a lawful way of his own choosing, is as much in a condition of peonage."

Hodges vs. U.S., 203 U.S. 1, 16-17, 27 S. Ct. 6, 8, 51 L. Ed. 65 (1906)

Such servitude is banned by 18 U.S.C. Section 1584 which applies to service compelled by law, by force or by threat of confinement of some sort. The Wisconsin Court has held that this service by Appellant is compelled by law and has sentenced him to penalty or confinement for failure to comply.

For further clarification of the issue, the Appellant would like to have the Supreme Court of the State of Wisconsin speak for him:

"By the preamble, preservation of liberty is given precedence over the establishment of government. It would be inconceivable that the people of Wisconsin, in establishing a government to secure the rights of life, liberty and the pursuit of happiness, should by the general grant of legislative power have intended to confer upon that government authority to wholly subvert those primary rights; and in view it has been held by this court that legislative acts conflicting with that declared purpose are forbidden by the constitution, and must be denied efficacy by the courts."

State vs. Kruetzberg, (Supreme Court of Wisconsin, May 19, 1902.) 90 N.W. 1098, p. 1099

and:

"One citizen cannot be compelled to give employment to another citizen, nor can anyone be compelled to be employed against his will."

State vs. Kruetzberg, supra, p. 1103

and:

"Hardly any of the personal civil rights is higher than that of free will in forming and continuing the relation of master and servant. If that may be denied by law, the result is legalized thralldom, not liberty."

State vs. Kruetzberg, supra, p. 1104

The Appellant would like to cite the following:

> "Constitutional Liberty means the right of one to use his faculties in all lawful ways, to live and work where he will, to earn his livelihood in any lawful calling and to pursue any lawful trade or avocation -- the restrictions upon conduct which may be imposed in the exercise of police powers include everything that may be necessary in the interest of the Public Health, the Public Safety, or the Public Morals, and they include nothing more."
>
> O'Keefe vs. Somerville, 76 NE 457, 459, 190 Mass 110, 112 Am. St Rep. 316 5 Ann. CAS. 684
>
> "The purpose of the Constitution and Bill of Rights, unlike more recent models promoting a welfare state, was to take government off the backs of people."
>
> Schneider vs. Smith, 394 U.S. 17, 19 L. Ed 2d 799, 88 S. Ct 682

As we study further we find:

> "The breach of contract for personal service has not, however, been recognized in this country as involving a liability to criminal punishment, except in the cases of soldiers, sailors and possibly some others; nor would public opinion tolerate a statute to that effect."
>
> Robertson vs. Baldwin, 17 S.C. Reporter's Edition, 165 U.S. 275, p. 326.

The Appellant is not a soldier, sailor or other wartime volunteer or conscriptee, he is merely a private citizen seeking to pursue a livelihood without extending the service to the State of Wisconsin of collecting its sales taxes - with no objection to payment thereof - and has served notice that he will not tolerate such a statute. The decision does further to say in regard to the Thirteenth Amendment:

> "The amendment however, makes no distinction between a public and a private service. To say that persons engaged in a public service are not within the amendment is to admit that there are exceptions to its general language, and the further question is at once presented, where shall the line be drawn?"
>
> Robertson vs. Baldwin, supra

Merely by being a service man, the state considers the Appellant to be a public servant, a collector of taxes. The state argues order and convenience. But such is hardly in accord with the above decreed principles.

The Appellant has been deprived of liberty and property without due process of law and has been denied the equal protection of the law as required by the Fourteenth Amendment.

> "The property which every man has in his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable. The patrimony of the poor man lies in the strength and dexterity of his own hands, and to hinder his employing this strength and dexterity in what manner he thinks proper, without injury to his neighbor, is a plain violation of this most sacred property."
>
> Butcher's Union vs. Crescent City, supra

and:

> "In our Constitution the liberties protected by the Bill of Rights, are, by express provision, 'excepted out of the general powers of government'. It is declared that they 'shall forever remain inviolate', and that 'all laws contrary thereto shall be void.'"
>
> Spahn vs. City of Dallas, supra

and:

> "Since the right of the citizen to use his property as he chooses so long as he harms nobody, is an inherent and constitutional right, the police power cannot be invoked for the abridgement of a particular use of private property, unless such use reasonably endangers or threatens the public health, the public safety, the public comfort or welfare, when it is manifest that such is not the real object or purpose of the regulation, and will be set aside as a clear and direct invasion of the right of property without any compensating advantages."
>
> Spahn vs. City of Dallas, supra

The requirement of a seller's permit is an exercise of police power. But the permit in no way serves to protect the public health, safety, comfort or welfare. It merely purports to give the possessor the 'privilege' of working and simultaneously collecting a sales tax for the State of Wisconsin. But without purchasing the 'privilege' of being a tax collector, the Appellant is denied his right to his own labor.

But it has been ruled:

> "I hold that the liberty of pursuit, the right to follow any of the ordinary callings of life, is one of the privileges of a citizen of the United States."
>
> Butcher's Union, etc. Co. vs. Crescent City, etc. Co. supra

and also ruled:

> "'If an owner', etc. 'obeys the law on which this prosecution rests, he is thereby deprived of a right and liberty to contract or terminate a contract as all others may. *** We deny that power of the legislature to do this; to brand as an offense that which the constitution designates and declares to be a right, and therefore an innocent act.' And Further: 'Nor can the statute escape censure by assuming the label of a police regulation. It has none of the elements or attributes which pertain to such a regulation, for it does not, in terms or by implication, promote, or tend to promote, the public health, welfare, comfort or safety; and, if it did, the state would not be allowed, under the guise and pretense of police regulation, to encroach or trample upon any of the just rights of the citizen, which the constitution intended to secure against diminution or abridgement."
>
> State vs. Kruetzberg, supra

There are several facets to the impairment of contracts committed by the State of Wisconsin in these cases. First, the requirement and issuance of a seller's permit to the Appellant, which established him as an unwilling tax collector, granted him no new special privilege or immunity, rather it restricted him.

Second, the State of Wisconsin entered as a party into every contract between the Appellant and his clients, and denied him the right to enter into such contract unless the state was a party thereto. That the presence of the state as a party to these contracts contributes nothing to the public health, welfare, comfort or safety can only be contradicted by the argument that this is a convenient method for collecting taxes to support those ends. But the convenience of the state is not to be considered in a case where civil liberty must thereby suffer.

"Police power is subject to the limitations imposed by the Constitution upon every power of government and will not be suffered to invade or impair the fundamental liberties of the citizen."

Spahn vs. City of Dallas, supra

The authority vested in the department not by election causes arrogance and unbridled leeway.

PRAYER FOR RELIEF

Believing that Appellant has amply demonstrated that the State of Wisconsin has infringed, encroached upon and denied his constitutionally guaranteed and protected inalienable rights under cloak and color of state law, specifically Wisconsin Statute Sections 77.51, 77.52 and 77.61, Petitioner hereby prays this Court to declare that those portions of those statutes which caused such infringement, encroachment and denial, be declared invalid and of no force, and restore to the Petitioner his ability to pursue his livelihood in a lawful manner, unhampered by agents of the Wisconsin Department of Revenue.

Should such not be the inclination of the Court, the Appellant then requests an opportunity for oral argument in order to further insight into these issued which were not presented due to space limitation.

Dated this 29 day of April, 1981

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Appellant - Pro Se
Proceeding In Forma Pauperis
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715-693-6266

A P P E N D I X

COURT OF APPEALS
DECISION
DATED AND RELEASED

JUN 10 1980

NOTICE

This opinion is subject to further editing. If published the official version will appear in the bound volume of The Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals pursuant to s. 808.10 within 30 days hereof, pursuant to Rule 809.62 (1).

No. 79-561-CR
79-562-CR

STATE OF WISCONSIN

IN COURT OF APPEALS
DISTRICT III

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

STANLEY M. BARTUS
d/b/a Stanley Bartus Oil
Burner Service,

Defendant-Appellant.

APPEAL from a judgment of the circuit court for Marathon county: NATHAN WIESE, Judge, presiding. Affirmed.

APPEAL from a judgment of the circuit court for Marathon county: RALPH STRANDBERG, Judge. Affirmed.

Office of the Clerk

SUPREME COURT

STATE OF WISCONSIN

Michael Hoover
Asst. District Attorney
Marathon County Courthouse
Wausau, WI 54401

Madison, December 1, 1980

To

Stanley M. Bartus
Route 5, Box 361
Mosinee, WI 54455

The Court today announced an order in your case as follows:

Nos. 79-561-CR & 79-562-CR State of Wisconsin v. Stanley M. Bartus, d/b/a Stanley Bartus Oil Burner Service

The court having considered the defendant-appellant's petition to review an adverse decision of district III of the court of appeals filed June 10, 1980,

IT IS ORDERED the petition is denied. No costs to the respondent.

MARILYN L. GRAVES

Clerk of Supreme Court.

SC-105

COURT OF APPEALS OF WISCONSIN
DISTRICT III

State of Wisconsin,
Plaintiff-Respondent,

v.

Stanley M. Bartus,
d/b/a Stanley Bartus Oil Burner Service,
Defendant-Appellant.

REMITTITUR

Appeal No. 79-561-CR
and 79-562-CR

This cause was an appeal to review the judgment/~~order~~s of the circuit court of Marathon County. Upon consideration, it is ordered and adjudged by this Court in an opinion filed June 10, 1980, that the judgment/~~order~~s of circuit court of Marathon County, in this cause is affirmed/~~xxxxxx~~

, with costs against appellant/respondent taxed in the sum of

The appeal record is hereby returned to the clerk of the circuit Court for Marathon County.

I certify that the above is a correct transcript of the original order and judgment of the court in the above-entitled cause.

Dated this 3rd day of December, 19 80

Marilyn L. Graves
Clerk, Court of Appeals

RECORD REMITTED TO LOWER COURT ON 12/3/80.

CA-103

FORM CC-15 — SENTENCE AND CERTIFIC... B. C. BRUSH CO. MILWAUKEE

...tions 959.01-959.02-959.055-959.02-959.052-252.20, Wisconsin Statutes

State of Wisconsin, COUNTY Court, MARATHON County.

STATE OF WISCONSIN,

vs.

STANLEY BARTUS
Defendant

SENTENCE AND CERTIFICATE

At a term of said Court held at the Court House in the City of Wausau, Wisconsin, on the 29th day of November, 1978, before the Hon. Nathan Wiese Judge, presiding.

(959.01) Said defendant after pleading Not Guilty
(guilty to, nolo contendere to, not guilty)

[was tried before a jury which returned a verdict of guilty of]*

~~[was tried before the Court without a jury, a jury having been waived, and the Court found the defendant guilty of]*~~

the crime of

Selling Property Without a Seller's Permit

in violation of section 977.52(12) Wisconsin Statutes 19 75. On such ~~[plea]*~~ [verdict]* ~~[finding]*~~ the Court adjudged the defendant guilty.

(959.02) Therefore pursuant to Sec. 977.52(12) Wisconsin Statutes 19 75, it is the judgment and sentence of this Court that you, Stanley Bartus (defendant), defendant,

(959.055) [pay a fine of One Hundred Fifty and 00/100---------- dollars ($ 150.00) and costs in the amount of Twenty-seven and 80/100---------- dollars ($ 27.80) or 20 Days in Jail ~~and be committed to the county jail until said fine and costs are paid or discharged.]*~~

~~[are hereby sentenced to~~
(name of jail, reformatory or prison)
~~at hard labor for (1)~~
(here insert terms of sentence)

~~and that said sentence shall commence at noon this ---- day of ----------, 19----]*~~

By the Court:

Nathan E Wiese
Judge

-41-

* Strike out words or paragraphs that do not apply.

(1) If sentence is to county jail and prisoner is not to be under Huber Law then cross out "hard labor" and insert in blank,

FORM CC-15 — SENTENCE AND CERTIFICAT

Sections 959.01-959.02-959.055-959.02-959.052-252.20, Wisconsin Statutes

State of Wisconsin, CIRCUIT Court, MARATHON County.

STATE OF WISCONSIN,

vs.

STANLEY BARTUS
Defendant

Case No. 10,073

SENTENCE AND CERTIFICATE

At a term of said Court held at the Court House in the City of Wausau, Wisconsin, on the 8th day of February, 19 79, before the Hon. Ralph Strandberg Judge, presiding.

(959.01) Said defendant ~~after pleading~~ (guilty to, nolo contendere to, not guilty)

Was Tried before a jury which returned a verdict of guilty of

[was tried before a jury which returned a verdict of guilty of]*

[~~was tried before the Court without a jury, a jury having been waived, and the Court found the defendant guilty of~~]*

the crime of Selling Without a Seller's Permit

in violation of section 77.52(12) Wisconsin Statutes 19 75. On such [plea]* [verdict]* [~~finding~~]* the Court adjudged the defendant guilty.

(959.02) Therefore pursuant to Sec. 77.52(12) Wisconsin Statutes 19 75, it is the judgment and sentence of this Court that you, Stanley Bartus (defendant), defendant,

(959.055) [pay a fine of Two Hundred and 00/100---------- dollars ($ 200.00) and costs in the amount of Seventy-two and 80/100---------- dollars ($ 72.80) and be committed to the county jail until said fine and costs are paid or discharged.]*

[are hereby sentenced to (name of jail, reformatory or prison)

at hard labor for (1) (here insert terms of sentence)

and that said sentence shall commence at noon this 8th day of February, 19 79.]*

By the Court:

Ralph Strandberg
Judge

N

-42-

* Strike out words or paragraphs that do not apply.

(1) If sentence is to county jail and prisoner is not to be under Huber Law then cross out "hard labor" and insert in blank, "ordinary confinement." Section 56.08 Wisconsin Statutes 1981.

STATE OF WISCONSIN CIRCUIT COURT MARATHON COUNTY

STATE OF WISCONSIN, Case No. 9626

Plaintiff,

vs. NOTICE OF APPEAL

STANLEY M. BARTUS,

Defendant.

TO: Clerk of Circuit Court

and

Rand Krueger, District Attorney, Marathon County, Wisconsin

Notice is hereby given that Stanley M. Bartus appeals to the Court of Appeals, District 3, from the part of the judgment entered on November 29, 1978 in the Circuit Court in and for Marathon County, the Honorable Nathan Wiese presiding, Case No. 9626, in favor of the State of Wisconsin, Plaintiff, and against the Defendant, Stanley M. Bartus, wherein the Defendant was found guilty of Selling Without a Sellers Permit, contrary to Section 77.52(12) of the Wisconsin Statutes.

Dated this 15 day of February, 1979.

STANLEY M. BARTUS
Defendant - Appellant

STATE OF WISCONSIN CIRCUIT COURT MARATHON COUNTY

STATE OF WISCONSIN, Case No. 10073

Plaintiff,

vs.

NOTICE OF APPEAL

STANLEY M. BARTUS,

Defendant.

TO: Clerk of Circuit Court

and

Rand Krueger, District Attorney, Marathon County, Wisconsin

Notice is hereby given that Stanley M. Bartus appeals to the Court of Appeals, District 3, from the part of the judgment entered on February 8, 1979 in the Circuit Court, in and for Marathon County, the Honorable Ralph Strandberg presiding, Case No. 10073, in favor of the State of Wisconsin, Plaintiff, and against the Defendant, Stanley M. Bartus, wherein the Defendant was found guilty of Selling Without a Sellers Permit, contrary to Section 77.52(12) of the Wisconsin Statutes.

Dated this 15 day of February, 1979.

STANLEY M. BARTUS
Defendant - Appellant

S/H Rec 2/16/79

THIS IS AN AUTHENTICATED COPY OF PLEADINGS FILED IN THIS DATE

GERALD C. KRITSCHEN CLERK
FEB 16 10 47 AM '79
CLERK OF COURTS MARATHON COUNTY WIS

SUPREME COURT OF WISCONSIN

STATE OF WISCONSIN, Appeal No._____

Plaintiff-Respondent,

vs. PETITION TO APPEAL

STANLEY M. BARTUS,

Petitioner-Defendant.

Stanley M. Bartus, Defendant, hereby petitions the Supreme Court of the State of Wisconsin, pursuant to sec. 808.10, Stats., and Rule 809.62, to review the decision of the Court of Appeals, District 3, in State of Wisconsin v. Stanley M. Bartus, Case No.'s 79-561-CR and 79-562-CR, filed on 10 June 1980, on the grounds:

1. That the appellate Court did not perceive that the plaintiff failed to answer the issues on appeal in a straightforward manner, particularly those of a constitutional nature wherein there is conflict with statutory law. The plaintiff claims untimely invocation of constitutional protection when the record shows that such protection was invoked by the petitioner in open hearing before Judge Nathan Weise, Circuit Court, Branch 2, Marathon County, Case No. 9626, June 29, 1978.

2. That the Appellate Court did not recognize that the Preamble to the Constitution of the United States and the Bill of Rights are based on Consuetudinal Law and that statutory fiat cannot abridge the right to work any more than it can abridge the right of self-defense protected by the 9th Amendment.

3. That the Appellate Court did not address itself to the question of the third essential element of the criminal act, intent to commit a crime. The petitioner stated from the beginning in his correspondence with the Wisconsin Department of Revenue that his acts were intended to uphold the Constitution of the State of Wisconsin as well as that of the United States.

4. Petitioner did not object to sales tax, nor did he fail to pay sales tax on parts, equipment or supplies of his trade and profession, but vehemently objects to the requirement that he become a tax collector in order to enjoy the fruits of the guarantees of the 1st, 4th, 5th, 9th, and 13th Amendments and pursue his profession. However, the Court in its decision implied that the petitioner had collected, but not remitted sales tax funds. The trial record clearly shows that such is not the case.

5. That the Appellate Court did not properly resolve the conflict over the nature of currency to be used in the collection of the tax nor perceive that the contract established between the State of Wisconsin and the United States on 29 May 1848, at which time both constitutions were held to be in harmony has been breached because neither has been changed in this (monetary) regard to date. Such failure to consider the issue is not in accord with the thinking of the United States Supreme Court in Calder vs. Bull, a court composed of our founders.

6. It is a religious belief of the petitioner that he is compelled to work (Genesis 3:17) and that the State of Wisconsin cannot force him to accept the auxiliary responsibility rejected by St. Matthew when he went into the service of the Lord. Such is forbidden by the 1st Amendment.

7. Statute 77.52 has an obvious overbreadth in its disregard of the constitutional protections claimed by the petitioner throughout this action, and the issues presented meet more than one of the criteria for granting of a petition for appeal in the standards of November, 1978, therefore the petitioner prays the Court, under the provisions of Article I, Section 4 of the Constitution of the State of Wisconsin and of the 1st Amendment to the Constitution of the United States, to review this matter and correct the injustices, grievances and hardships imposed by the actions of the plantiff.

Respectfully submitted this 1st day of July, 1980.

FILED
CLERK OF COURTS
MARATHON COUNTY
JUL 2 12 55 PM '80
GERALD J. SCHEIN
CLERK

STANLEY M. BARTUS
Petitioner, pro se

1848 Maple Ridge Road
Mosinee, WI 54455

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COPY OF PLEADINGS FILED
ON THIS DATE

Supreme Court of the United States

No. A-725

STANLEY M. BARTUS,

Appellant

v.

WISCONSIN

ORDER

UPON CONSIDERATION of the application of the appellant,

IT IS ORDERED that the time for docketing an appeal in the above-entitled case be, and the same is hereby, extended to and including April 29, 1981.

/s/ John Paul Stevens

Associate Justice of the Supreme Court of the United States

Dated this 23rd day of February, 1981.

IN THE SUPREME COURT

FOR THE STATE OF WISCONSIN

STATE OF WISCONSIN,

Appellee,

vs.

STANLEY M. BARTUS,

Appellant.

Case No.'s 79-561CR and 79-562CR

RECEIVED
MAR 0 2 1981
CLERK OF SUPREME COURT, WIS.

NOTICE OF APPEAL

TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that Stanley M. Bartus, Appellant above named, hereby appeals to the Supreme Court of the United States from the final Order entered on December 1, 1980 by the Wisconsin Supreme Court denying Appellant's Petition to Review and Adverse Decision of the Court of Appeals of Wisconsin, District III.

This appeal is taken pursuant to United States Code, Title 28, Section 1257(2), in his person.

Dated this 17th day of February, 1981.

STANLEY M. BARTUS

Appellant - Pro Se
In Forma Pauperis

1848 Maple Ridge Road
Mosinee, WI 54455

STATE OF WISCONSIN | MARATHON COUNTY COURT | MARATHON COUNTY

STATE OF WISCONSIN,
Plaintiff,

vs.

MOTION TO DISMISS
Case No. 9626

STANLEY M. BARTUS
d/b/a Stanley Bartus Oil Burner Service
Route #5
Mosinee, Wi.
Defendant

NOW COMES Stanley M. Bartus, hereafter petitioner, pro se, and moves the court for an order dismissing the above-entitled action stating in support therof the following:

I.

This court lacks subject-matter jurisdiction over the person.

1. Section 77.52 Wis. Stats. infringes upon substantive constitutional guarantees.

a. Statute is in direct violation of Article 13 Section 1, which guarantees equal taxation, and the 14 Amendment to the United States Constitution.

Defendants right to make a livelyhood as a repairman is jeopardized by state action forcing defendant to collect taxes through the issuance of a seller permit. (when farmer sells tangible personal property he pays no sales tax). Another example of unequal taxation; one pays tax on food at a resturant but none at a grocery store.

b. Section 77.52 gives one a privelege to sell, and defendant has a right to be free to earn his livelyhood by any lawfull calling to pursue any livelihood or avocation. Ollgeyer vs. Louisiana, 165 U.S. 578, and therefore defendants inherent rights supercede any and all privileges.

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JUN 27 9 52 AM '78

GERALD C. GERTSCHEN CLERK

FILED
CLERK OF COURTS
MARATHON COUNTY

c. Section 77.52 violates defendants religous beliefs for reason:

The seller permit and accompying number categorizes the defendant as revealed in the bible in Revelation Chapeter 13 verses 16 through 18:

And he causeth all, both small and great, rich and poor, free and bond to receive a mark in their right hand, or in their foreheads:

And that no man might buy or sell, save he that had the mark, or the name of the beast, or the number of his name.

Here is wisdom. Let him that hath understanding count the number of the beast for it is the number of a man; and his number is 666.

Which would thereby compell defendant to forfeit his christian belief and abide by the anti-Christ forces. Defendant conscience and beliefs in the concept of this nation as ruled in ("The Church of the Holy Trinity vs. United States 143 U.s 232) where this country was established as a christian nation and the duty of all citizens of this nation is to abide by christian principals. (Exhibit B)

II.

Motion to dismiss due to insufficency of the complaint.

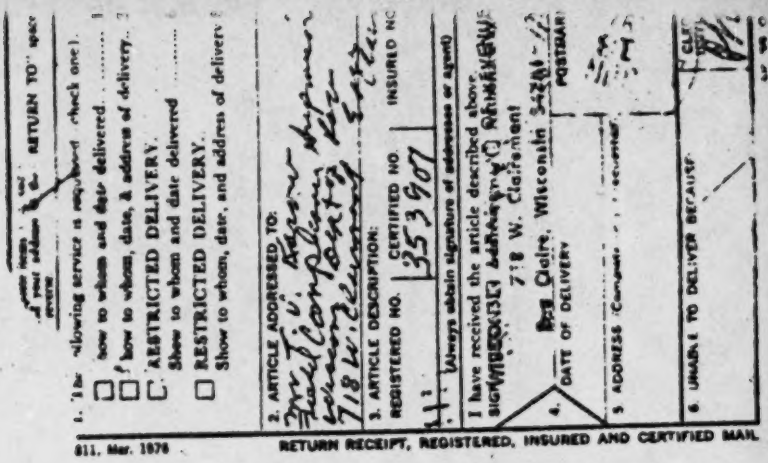
a. Defendant invoked the United States Constitution as an instrument to be used as a bar against infringement upon the inherent rights of defendant, thereby complaint fails to identify the Constitution as an accessory. See exhibit A.

WHEREFORE petitioner prays that the above-entitled action be dismissed to avoid going to the Supreme Court..

Dated: June 26, 1978

Respectfully submitted

Stanley M. Bartus
Route 5
Mosinee, Wi.



MR. T V. KAROW
Field Compliance Supervisor
Wisconsin Department of Revenue
718 West Clairemont
Eau Claire, Wisconsin 54701

Dear Mr. Karow:

Enclosed, please find Wisconsin Seller's Permit Number 149668, originally unlawfully issued and therefore subsequently unlawfully revoked.

To attempt to retain that permit seems an exercise in futility since researching the Constitution of the United States. This study ~~sooty~~ has shown that Article XIII of the amendments forbids involuntary servitude and slavery. The fact is that I am a service-man by choice and by profession, and at no time have expressed a desire to be a tax collector. Since I am not a tax collector, do not wish to be a tax collector, and have no Constitutional obligation to be a tax collector, apparently I am not one. I remain a service-man.

It appears you have not been made privy to my communication with Mr. Daniel G. Smith on the 17th of April of this year, so I would suggest that you contact his office for that information in order that your actions be governed by law rather than by decree of a supervisor acting outside the law.

I do trust that the investigation which you threaten and apparently plan and contemplate will be conducted solely within the confines of the law and its interpretations by our higher courts and devoid of any entrapment or similar odious and felonious procedures. I fully realize the difficulties of a public servant masquerading as one of the masters, but my sympathy will not withhold any and all legal recourse in the case of violation of any of my Constitutional rights or those of my family.

Should you have any furhter comment or question, I can be contacted at the above address or by phone at 715-693-6622.

I hope the Spirit of Pentacost has transcended you and that the grace of St. Matthew has pervaded your spirit.

Sincerely,

Stanley M. Bartus

cc: Daniel Smith
encl: Wis. Seller's Permit No. 149668

Exhibit A